IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

ERIC THORNTON,

Petitioner,

v.

Civil Action 2:17-cv-702
Judge George C. Smith
Magistrate Judge Michael R. Merz

WARDEN, BELMONT CORRECTIONAL INSTITUTION,

Respondent.

OPINION AND ORDER

On June 5, 2019, the Magistrate Judge issued a *Report and Recommendation* ("*R&R*") recommending that the *Petition* for a writ of habeas corpus be dismissed. (ECF No. 11.) The Magistrate Judge concluded that although Petitioner was entitled to equitable tolling of the statute of limitations for his otherwise untimely petition, he was not entitled to relief because his claims were either procedurally barred or non-cognizable. (*Id*.). On June 19, 2019, Respondent objected only to the Magistrate Judge's timeliness determination. (ECF No. 12.)

Because the Magistrate Judge recommended that the *Petition* be dismissed on the merits, the Court need not resolve Respondent's objections on the equitable tolling issue.

On June 26, 2019, Petitioner sought and received an extension of time until July 26, 2019, to object to the *R&R*. Although the parties were advised of the right to file objections to the *R&R*, and of the consequences of failing to do so, Petitioner has filed no objections. Therefore, the *R&R* (ECF No. 12) is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

Pursuant to 28 U.S.C. § 2253(c)(1)(A) and Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, the Court must determine whether to issue a certificate of appealability. Because Petitioner has waived the right to file an appeal by failing to file objections to the *R&R*, *see Thomas v. Arn*, 474 U.S. 140, 147 (1985); *United States v. Walters*, 638 F. 2d 947, 950 (6th Cir. 1981), the Court **DECLINES** to issue a certificate of appealability. The Court further concludes that any appeal would be objectively frivolous.

IT IS SO ORDERED.

s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT